

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANK FLUELLEN a/k/a	:	CIVIL ACTION
JAMES CUNNINGHAM	:	
	:	
v.	:	
	:	
ROBERT SHANNON, et al	:	NO. 07-4290

O R D E R

AND NOW, this 10th day of April, 2008, upon consideration of the Report and Recommendation of Magistrate Judge Timothy R. Rice and petitioner's request for evidentiary hearing and objections thereto, it is ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The petition for a writ of habeas corpus is DENIED with prejudice as untimely;
3. There is no probable cause to issue a certificate of appealability.

s/Thomas N. O'Neill, Jr.
THOMAS N. O'NEILL, JR., J.